IN THE HIGH COURT OF JUDICATURE AT BOMBAY

ORDINARY ORIGINAL CIVIL JURISDICTION

SUMMONS FOR JUDGMENT NO. 382 OF 2004

IN

SUM.SUIT NO. 2183 OF 2003

SKF Bearings India Ltd., .. Plaintiffs

vs.

Banarasi Lal Madan .. Defendant.

Mr. Burges Colabawala a/w Varsha Vartak i/by
Madekar & Co. for the plaintiffs.
Mr. Arif Bookwala a/w Tushar Bhavsar i/by
Manoj Bhatt for defendant.

CORAM : S.U.KAMDAR, J.

DATE : 26th SEPTEMBER, 2005.

P.C.

. The present summary suit is filed for goods sold and delivered in respect of the invoices which are set out at Exhibit A to the plaint. There are two dishonoured cheques for the sum of Rs. 47 lacs approximately. The contention of the defendant is that the part of the claim is barred by law of limitation. In my view once the cheques are issued

to the extent of 47 lacs the liability in the said claim is acknowledgement and, therefore, the fresh period of limitation arises since cheques are for a period between 15.10.2000 to 14.11.2000 would make the whole claim within time. The next contention is raised that Exhibit C to the plaint is not signed by the debtor. Even fi I accept the said contention. I am of the view that even without taking into consideration Exhibit C to the plaint, the plaintiff is entitled to substantial payment towards his claim. In that view of the matter, I grant conditional leave to defend to the defendant on deposit of Rs. 50 lacs within a period of six weeks failing which the plaintiff will be entitled to decree as prayed. The amount if so deposited, the Prothonotary and Senior Master is directed to deposit the same in a fixed deposit with any nationalised bank initially for a period of one year and renew the same from time to time till further orders from this Court.

2. Suit transferred to the list of Commercial Causes. Written Statement or points of defence to be filed four weeks from the date of deposit. Affidavits list of documents to be filed within four weeks thereafter. Inspection within four weeks thereafter. Suit to be on Board of the learned Judge taking Commercial Causes.